



DEPARTMENT OF THE ARMY

ST. PAUL DISTRICT, CORPS OF ENGINEERS
ARMY CORPS OF ENGINEERS CENTRE
190 FIFTH STREET EAST
ST. PAUL, MN 55101-1638

July 11, 2001

REPLY TO
ATTENTION OF

Construction-Operations
Regulatory (01-05081-DJP)

Mr. Igor Vaynberg
Welch Hanson & Associates
355 Austin Circle, Suite 100
Delafield, Wisconsin 53018

Dear Mr. Vaynberg:

We have reviewed information about a project of Bielinski Development, Inc. to complete site grading near several isolated wetlands for the development of the Auburn Hills subdivision; and to complete restoration/enhancement activities within the wetland basins. The project is located in the SW 1/4 and the NW 1/4, Sec. 36, T. 4N., R. 22E., Racine County, Wisconsin, as shown on the attached drawing or map.

This jurisdictional determination takes into consideration the U.S. Supreme Court's decision in Solid Waste Agency of Northern Cook County v. Corps of Engineers (the SWANCC decision). The areas encompassed by this jurisdictional determination are waterbodies/wetlands that are approximately 1 acre in size.

The subject water bodies are not "waters of the United States" because they are: (1) not navigable waters, (2) not interstate waters, (3) not part of a tributary system to 1 or 2, (4) not wetlands adjacent to any of the foregoing, and not an impoundment of any of the above. In addition, the interstate commerce nexus to these particular waterbodies is insufficient to establish Clean Water Act jurisdiction. These waterbodies are therefore not subject to regulation by the Corps of Engineers under Section 404 of the Clean Water Act.


This jurisdictional determination is valid only for the project and waterbodies referenced above. It is based on the Headquarters guidance available to us at this time.

PLEASE NOTE THAT THIS LETTER DOES NOT ELIMINATE THE NEED FOR OTHER FEDERAL, STATE, LOCAL, OR OTHER AUTHORIZATIONS (SUCH AS THOSE OF THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES OR RACINE COUNTY).

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If you have any questions, contact Dale Pfeiffle in our Waukesha office at (262) 547-0868. In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,


for Robert J. Whiting
Chief, Regulatory Branch

Enclosure

Copy furnished to:

Shane Heyel, WDNR, Sturtevant, WI
Lois Simon, WDNR, Madison, WI
Frank Risler, Racine County, Sturtevant, WI